

Attachment D
Proposed Restaurant Lease Agreement

Part 4 of 4

EXHIBIT E INSURANCE REQUIREMENTS

Without limiting Lessee's indemnification obligations to County under this Lease, Lessee shall provide and maintain for the duration of this Lease insurance against claims for injuries to persons or damages to property which may arise from or in connection with the Lessee's operation and use of the leased premises. The cost of such insurance shall be borne by the Lessee.

1. Minimum Scope of Insurance

Coverage shall be at least as broad as:

- A. Airport Liability or Commercial General Liability, Occurrence form, Insurance Services Office Form CG0001.
- B. Automobile Liability covering all owned, non owned and hired auto, Insurance Services Office Form CA0001.
- C. Workers Compensation, as required by State of California and Employer's Liability Insurance.
- D. Property Insurance against all risk or special form perils, including Replacement Cost coverage, without deduction for depreciation, for any buildings owned by Lessee, Lessee's merchandise, fixtures owned by Lessee, any items identified in this Lease as improvements to the Premises constructed and owned by Lessee, and the personal property of Lessee, its agents and employees.
- E. Rental Income Insurance assuring County of receiving the minimum monthly rent from the time the Premises are damaged or destroyed with a minimum period of coverage for one (1) year.

2. Minimum Limits of Insurance

Lessee shall maintain limits no less than:

- A. Commercial General Liability including Premises, Operations, Products and Completed Operations, Contractual Liability and Independent Contractors: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. The General Aggregate limit shall be \$2,000,000 and shall be a Per Location Aggregate. Fire Damage Limit (Any One Fire) \$300,000 and Medical Expense Limit (Any One Person) \$5,000.
- B. Automobile Liability: \$1,000,000 each accident for bodily injury and property damage. Coverage will include contractual liability.
- C. Employers Liability: \$1,000,000 each accident for bodily injury or disease. Coverage shall

include a waiver of subrogation endorsement in favor of County of San Diego.

- D. Property: Full replacement cost with no coinsurance penalty provision.

3. Deductibles and Self-Insured Retention's

Any liability deductible or self-insured retention must be declared to and approved by the County's Risk Manager. The property insurance deductible shall not exceed \$5,000 per occurrence and shall be borne by Lessee.

4. Other Insurance Provisions

The general liability and automobile liability policies are to contain, or be endorsed to contain the following provisions:

A. Additional Insured Endorsement

Any general liability policy provided by Lessee shall contain an additional insured endorsement applying coverage to the County of San Diego, the members of the Board of Supervisors of the County and the officers, agents, employees and volunteers of the County, individually and collectively.

B. Primary Insurance Endorsement

For any claims related to this Lease, the Lessee's insurance coverage shall be primary insurance as respects the County, the members of the Board of Supervisors of the County and the officers, agents, employees and volunteers of the County, individually and collectively. Any insurance or self-insurance maintained by the County, the members of the Board of Supervisors of the County, its officers, officials, employees, or volunteers shall be excess of the Lessee's insurance and shall not contribute with it.

C. Notice of Cancellation

Each required insurance policy shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the County at the address shown in section of Lease entitled "Notices".

General Provisions

5. Qualifying Insurers

All required policies of insurance shall be issued by companies which have been approved to do business in the State of California by the State Department of Insurance, and which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII according to the current Best's Key Rating guide, or a company of equal financial stability that is approved in writing by County's Risk Manager.

6. Evidence of Insurance

Prior to commencement of this Lease, but in no event later than effective date of the Lease, Lessee shall furnish the County with certificates of insurance and amendatory endorsements effecting coverage required by this clause. Lessee shall furnish certified copies of the actual insurance policies specified herein, within thirty days after commencement of Lease. Thereafter, copies of renewal certificates and amendatory endorsements shall be furnished to County within thirty days of the expiration of the term of any required policy. Lessee shall permit County at all reasonable times to inspect any policies of insurance of Lessee which Lessee has not delivered to County. Policies, renewal certificates and amendatory endorsements shall be delivered to County at:

County of San Diego
1960 Joe Crosson Drive
El Cajon CA 92020.

7. Failure to Obtain or Maintain Insurance; County's Remedies

Lessee's failure to provide insurance specified or failure to furnish certificates of insurance, amendatory endorsements and certified copies of policies, or failure to make premium payments required by such insurance, shall constitute a material breach of the Lease, and County may, at its option, terminate the Lease for any such default by Lessee.

8. No Limitations of Obligations

The foregoing insurance requirements as to the types and limits of insurance coverage to be maintained by Lessee, and any approval of said insurance by the County are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by Lessee pursuant to the Lease, including, but not limited to, the provisions concerning indemnification.

9. Review of Coverage

County retains the right at any time to review the coverage, form and amount of insurance required herein and may require Lessee to obtain insurance reasonably sufficient in coverage, form and amount to provide adequate protection against the kind and extent of risk which exists at the time a change in insurance is required.

10. Self-Insurance

Lessee may, with the prior written consent of County's Risk Manager, fulfill some or all of the insurance requirements contained in this Lease under a plan of self-insurance. Lessee shall only be permitted to utilize such self-insurance if in the opinion of County's Risk Manager, Lessee's (i) net worth, and (ii) reserves for payment of claims of liability against Lessee, are sufficient to adequately compensate for the lack of other insurance coverage required by this Lease. Lessee's utilization of self-insurance shall not in any way limit liabilities assumed by Lessee under this Lease.

11. Sublessees' Insurance

Lessee shall require any sublessee, and any sub-sublessee, of all or any portion of the Premises to provide the insurance coverage described herein prior to occupancy of the Premises.

12. Waiver of Subrogation

Lessee and County waive all rights to recover against each other or against any other tenant or occupant of the building, or against the officers, directors, shareholders, partners, employees, agents or invitees of each other or of any other occupant or tenant of the building, from any Claims (as defined in the Article entitled "Indemnity") against either of them and from any damages to the fixtures, personal property, Lessee's improvements, and alterations of either County or Lessee in or on the Premises and the Property, to the extent that the proceeds received from any insurance carried by either County or Lessee, other than proceeds from any program of self-insurance, covers any such Claim or damage. Included in any policy or policies of insurance provided by Lessee shall be a standard waiver of rights of subrogation against County by the insurance company issuing said policy or policies.

EXHIBIT F
COUNTY OF SAN DIEGO REQUIRED SUBLEASE PROVISIONS

EXHIBIT "F"

COUNTY OF SAN DIEGO REQUIRED SUBLEASE PROVISIONS

The Sublessor may draft its own Sublease form. The material provisions of the following paragraphs must appear in the Sublease. Paragraphs marked with an asterisk (*) must be used verbatim. The Sublease, Proposers Questionnaire and sublease processing fee (checks made out to County of San Diego) must be submitted to the Airports Director with the Sublease Processing Fee prior to occupancy by Sublessee.

1. Parties. This Sublease is entered into by and between _____
_____, ("Sublessor") and _____
_____, ("Sublessee") as a Sublease under the
master lease ("Master Lease") dated _____, 20____, also known as County of San
Diego Contract No. _____. Sublessor, under this Sublease, is Lessee, and County of San
Diego is Lessor, under the Master Lease.

2. Premises. Sublessor leases to Sublessee and Sublessee hires the following described
Premises together with the appurtenances, situated in the County of San Diego, State of
California:

Said Premises are shown on Exhibit "A", attached hereto.

3. Term. The term of this Sublease Agreement shall be for _____,
commencing _____, 20____, and terminating _____,
20____, unless sooner terminated as provided herein. (Note: Termination date of Sublease
cannot exceed expiration date of Master Lease.)

4. Rental. Sublessee shall pay to Sublessor as rent for the Premises in advance on the first
day of each calendar month of the term of this Sublease, without deduction, offset, prior notice
or demand, in lawful money of the United States, the sum of _____
Dollars and _____ Cents (\$_____). If the commencement
date is not the first day of the month, or if the Sublease termination date is not the last day of the
month, a prorated month installment shall be paid at the then current rate for the fractional month
during which the Sublease commences and/or terminates. Receipt of \$ _____
is hereby acknowledged for rental for the first month, and the additional amount of \$ _____
as non-interest bearing security for performance under this Sublease. In the event Sublessee has
performed all the terms and conditions of this Sublease throughout the term, upon Sublessee
vacating the Premises, the amount paid as a security deposit shall be returned to Sublessee after
first deducting any sums owing to Sublessor.

5. Use. Sublessee shall use the Premises for _____

and for no other purposes without prior written consent of Sublessor. Sublessee's business shall be established and conducted throughout the term hereof in a first class manner. Sublessee shall not use the Premises for, or carry on, or permit to be carried on, any offensive, noisy or dangerous trade, business, manufacture or occupation.

*6. Indemnity. County shall not be liable for, and Sublessee shall defend and indemnify County and the employees and agents of County (collectively "County Parties"), against any and all claims, demands, liability, judgments, awards, fines, mechanics' liens or other liens, labor disputes, losses, damages, expenses, charges or costs of any kind or character, including attorneys' fees and court costs (hereinafter collectively referred to as "Claims"), related to this Sublease or Sublessee's use or occupancy of the Subleased Premises and arising either directly or indirectly from any act, error, omission or negligence of Sublessee or its Sublessees, licensees, agents, servants or employees, including, without limitation, Claims caused by the concurrent negligent act, error or omission, whether active or passive, of County Parties. Sublessee shall have no obligation, however, to defend or indemnify County Parties from a Claim if it is determined by a court of competent jurisdiction that such Claim was caused by the sole negligence or willful misconduct of County Parties.

7. Insurance. Sublessee agrees to provide Sublessor with a Certificate of Public Liability and Property Damage Insurance in an amount satisfactory to Sublessor, but in no event less than:

\$ _____ bodily injury, each person

\$ _____ bodily injury, each occurrence, and

\$ _____ property damage

OR

\$ _____ combined single limit in lieu of above.

Workers' Compensation to statutory limits.

*8. Provisions Constituting Sublease. This Sublease is subject to all of the terms and conditions of the Master Lease. Sublessee shall assume and perform the obligations of Sublessor and Lessee in the Master Lease, to the extent such terms and conditions are applicable to the Premises subleased pursuant to this Sublease. Sublessee shall not commit or permit to be committed on the Premises any act or omission which shall violate any term or condition of the Master Lease. In the event of the termination of Sublessor's interest as Lessee under the Master Lease for any reason, then this Sublease shall terminate coincidentally therewith without any liability of Sublessor or County to Sublessee.

*9. Sublessee's Waiver and Release of Relocation Benefits. In consideration of County's consent to this Sublease, Sublessee hereby waives any and all rights it may now have, or may hereafter obtain, to relocation benefits ("Relocation Benefits") under the Federal Uniform Relocation Assistance Act (42 U.S.C. §§ 4601 et seq.) and/or the California Relocation Assistance Law (Cal. Gov. Code, §§ 7260 et seq.), arising out of the County's assertion or exercise of its contractual rights to terminate the Lease or this Sublease pursuant to its terms, whether or not such rights are contested by Sublessee or any other entity, and releases County from any liability for payment of such Relocation Benefits. Sublessee shall in the future execute any further documentation of the release and waiver provided hereby as County may reasonably require.

*10. Federal Aviation Administration Requirements. In the event there is any conflict between the provisions in this Clause and the other provisions in this Sublease, the provisions in this Clause shall take precedence.

a. Sublessee, for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this Sublease for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, Sublessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, DOT, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

b. Sublessee, for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination, (3) that Sublessee shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

c. That in the event of breach of any of the above nondiscrimination covenants, Sublessor shall have the right to terminate this Sublease and to re-enter and repossess said land and the facilities thereon, and hold the same as if said Sublease had never been made or issued. This provision does not become effective until the procedures of 49 CFR Part 21 are followed and completed including expiration of appeal rights.

d. Sublessee shall furnish its accommodations and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof and it shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service; provided, that Sublessee may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar type of price reductions to volume purchasers.

e. Non-compliance with Provision d above shall constitute a material breach thereof and in the event of such non-compliance Sublessor shall have the right to terminate this Sublease and the estate hereby created without liability therefore, or at the election of Sublessor, County or the United States, any or all said entities shall have the right to judicially enforce said Provisions.

f. Sublessee agrees that it shall insert the above five Provisions in any sub-sublease by which said Sublessee grants a right or privilege to any person, firm or corporation to render accommodations and/or services to the public on the Premises herein subleased.

g. Sublessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall, on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Sublessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. Sublessee assures that it will require that its covered sub-organizations provide assurances to Sublessee that they similarly will undertake affirmative action programs and that they will require assurance from their sub-organizations, as required by 14 CFR Part 152, Subpart E, to the same effort.

h. County reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires or view of Sublessee, and without interference or hindrance.

i. County reserves the right, but shall not be obligated to Sublessee, to maintain and keep in repair the landing area of the Airport and all publicly-owned facilities of the Airport, together with the right to direct and control all activities of Sublessee in this regard.

j. This Sublease shall be subordinate to the provisions and requirements of any existing or future agreement between County and the United States, relative to the development, operation or maintenance of the Airport.

k. There is hereby reserved to County, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises herein subleased. This public right of flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking off from or operation on the Airport.

l. Sublessee agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event future construction of a building is planned for the subleased Premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the subleased Premises.

m. Sublessee by accepting this expressly agrees for itself, its successors and assigns that it will not erect nor permit the erection of any structure or object nor permit the growth of any tree on the land subleased hereunder that conflicts with Part 77 of the Federal Aviation Regulations. In the event the aforesaid covenants are breached, County and/or Sublessor reserve the right to enter upon the land subleased hereunder and to remove the offending structure or object and cut the offending tree, all of which shall be at the expense of Sublessee.

n. Sublessee by accepting this Sublease agrees for itself, its successors and assigns that it will not make use of the subleased Premises in any manner which might interfere with the landing and taking off of aircraft from the Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, County and/or Sublessor reserve the right to enter upon the Premises hereby subleased and cause the abatement of such interference at the expense of Sublessee.

o. It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308a of the Federal Aviation Act of 1958 (49 U.S.C. 1349a).

p. This Sublease and all the provisions hereof shall be subject to whatever right the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation and taking over of said Airport or the exclusive or non-exclusive use of the Airport by the United States during the time of war or national emergency.

*11. Signs. Sublessee shall not erect nor cause to be erected any sign on the Subleased Premises without the prior written approval of the County Airports Director. A written request for sign approval must include the size, type, color and location of the proposed sign and said application must be concurred in by Sublessor before submittal to County Airports Director.

*12. Substance Abuse. Sublessee and its employees and agents shall not use or knowingly allow the use of the subleased Premises for the purpose of unlawfully driving a motor vehicle or aircraft under the influence of an alcoholic beverage or any drug or for the purpose of unlawfully selling, serving, using, storing, transporting, keeping, manufacturing or giving away alcoholic beverages or any controlled substance, precursor, or analog specified in Division 10 of the California Health and Safety Code, and violation of this prohibition shall be grounds for immediate termination of this Sublease.

*13. County's Right of Access.

a. County's Right to Enter the Premises. County, its agents, employees, and contractors may enter the Premises at any time in response to an emergency, and at reasonable hours to (a) inspect the Premises, (b) exhibit the Premises to prospective purchasers or lessees, (c) determine whether Lessee is complying with its obligations under the Master Lease (including its obligations with respect to compliance with Hazardous Materials Laws), (d) supply cleaning service and any other service that the Master Lease requires County to provide, (e) post notices of nonresponsibility or similar notices, or (f) make repairs that the Master Lease requires County to make, or make repairs to any adjoining space or utility services, or make repairs, alterations, or improvements to any other portion of the Premises; provided, however, that all work will be done as promptly as reasonably possible and so as to cause as little interference to Sublessee as reasonably possible.

b. Sublessee's Waiver of Damages Claims. Sublessee waives any claim of injury or inconvenience to Sublessee's business, interference with Sublessee's business, loss of occupancy or quiet enjoyment of the Premises, or any other loss occasioned by such entry. If

necessary, Sublessee shall provide County with keys to unlock all of the doors in the Premises (excluding Sublessee's vaults, safes, and similar areas designated in writing by Sublessee in advance). County will have the right to use any means that County may deem proper to open doors in the Premises and to the Premises in an emergency. No entry to the Premises by County by any means will be a forcible or unlawful entry into the Premises or a detainer of the Premises or an eviction, actual or constructive, of Sublessee from the Premises, or any part of the Premises, nor will the entry entitle Sublessee to damages or an abatement of rent or other charges that this Sublease requires Sublessee to pay.

This Sublease entered into this ____ day of _____, 20__.

SUBLESSEE: _____

SUBLESSEE: _____

By _____
(Title)

By _____
(Title)

By _____
(Title)

By _____
(Title)

Address _____

Address _____

EXHIBIT H
WORK LETTER AGREEMENT - AIRPORTS

This Work Letter Agreement ("Agreement") states the agreement of the parties regarding the construction of Improvements by Lessee.

1. IMPROVEMENTS. Lessee shall complete, at Lessee's expense, the Required Improvements to the Premises identified in the Lease, and, at Lessee's option and expense, may construct the Optional Improvements to the Premises identified in the Lease. The Required and Optional Improvements (referred to collectively herein as the "Improvements") shall be completed or constructed in a manner consistent with any present or future ALP which is or may be adopted by the Board and the FAA, and with Exhibit "C" (AVIATION AREAS DEVELOPMENT STANDARDS) and Exhibit "D" (INDUSTRIAL AND AVIATION AREAS RESTAURANT PERFORMANCE STANDARDS) attached hereto (referred to collectively herein as "Standards"), and shall be at least comparable in quality to other similar facilities completed or constructed in the area of the Premises within the past five years.

2. PLANS AND SPECIFICATIONS.

(a) Final Plans. Lessee shall deliver to the Airports Director plans and specifications ("Plans") prepared by Lessee's architect in conformity with the Standards (i) for those Required Improvements consisting of construction of _____

_____, within thirty (30) days following the Commencement Date of the Lease, and, (ii) for any Optional Improvements, within one hundred twenty (120) days prior to scheduled commencement of construction. The Plans shall include, as applicable, site layout, building design and architectural treatment, exterior elevations, signage and landscaping. Airports Director shall have the right to approve the Plans and all material changes thereto, but approval shall not be unreasonably withheld. Airports Director shall approve or disapprove the Plans and any modifications thereto within fifteen (15) days after receipt. If Airports Director disapproves, County and Lessee shall promptly meet and attempt to resolve any dispute. If the parties are unable to mutually approve the Plans on or before the date which is seven (7) days following Airports Director's notification to Lessee of its disapproval of the Plans, either party may terminate this Lease upon ten (10) days prior written notice to the other party. "Final Plans" means the Plans as approved by Airports Director and Lessee.

(b) Working Drawings. Lessee shall prepare working drawings for any Improvements, at Lessee's expense, in conformance with the Final Plans ("Working Drawings"). Lessee shall submit the Working Drawings to Airports Director within sixty (60) days after Airports Director's approval of the Final Plans. Airports Director shall have the right to approve the Working Drawings and all material changes thereto, but Airports Director shall not unreasonably disapprove if the Working Drawings are consistent with the Final Plans. Airports Director shall approve or disapprove the Working Drawings within thirty (30) days after receipt.

3. PRE-CONSTRUCTION REQUIREMENTS.

(a) Building Permit. Within ten (10) days following Airports Director's approval of the Working Drawings for an Improvement pursuant to Section 2(b), above, Lessee shall submit and diligently process an application for building permits with the City of Carlsbad. Lessee shall obtain, at Lessee's expense, all other governmental permits required to complete the Improvements and shall comply with all conditions thereto and with all other applicable governmental laws, regulations and requirements.

(b) Bonds. Prior to the commencement of construction of any of the Improvements, at the option of the Airports Director, Lessee shall obtain or cause its contractor ("Contractor") to obtain payment and performance bonds ("Bonds") covering the faithful performance of the contract for the construction of the Improvements and the payment of all obligations arising thereunder. The Bonds shall be on forms approved by County and shall be issued by a surety satisfactory to County; provided, however, that said surety shall have a current A.M. Best rating of A-5, or better, and shall be currently licensed to transact its insurance business in the State of California. The Bonds shall (i) name County as a primary co-obligee, (ii) name Contractor as principal, and (iii) assure full and satisfactory completion of the Improvements by the deadlines set forth in ARTICLE 10 (LESSEE'S RIGHT TO MAKE IMPROVEMENTS; PERSONAL PROPERTY; FIXTURES) of this Lease. Bonds shall also guarantee that (i) all materials and workmanship supplied and/or installed as part of the Improvements shall be free from original or developed defects, and (ii) any original or developed defects or failures which appear in the Improvements within one (1) year after installation shall be repaired and/or replaced with all due diligence, at no cost to Lessee or County. The Bonds shall be maintained in full force and effect by Lessee during the construction and installation of the Improvements and for a period of one year after completion thereof. Lessee shall ensure that the surety company familiarizes itself with all of the terms and conditions of the Lease and shall require the surety company to waive (i) notification of any modifications or alterations of the Final Plans or Working Drawings, (ii) notification of any County-requested Changes (including any extension of the construction performance deadlines set forth in Article 10 (LESSEE'S RIGHT TO MAKE IMPROVEMENTS; PERSONAL PROPERTY; FIXTURES) of the Lease), and (iii) its rights under the provisions of Section 2819 of the Civil Code of the State of California. The cost of the Bonds shall be paid by Lessee.

(c) Insurance. From commencement of construction of the Improvements, Lessee shall maintain, or cause its Contractor to maintain, Commercial General Liability, Comprehensive Automobile, and Statutory Workers' Compensation and Employer's Liability Insurance naming the County as Additional Insured, in the form and amounts specified in the Lease, and shall also maintain, during the course of construction of the Improvements and until completion thereof, Builder's Risk Insurance in an amount equal to the expected value of the Improvements when construction is completed. Prior to commencement of construction, Lessee shall provide written evidence to County of such insurance coverage.

(d) Contract for Construction. County reserves the right to approve Contractor, but approval shall not be unreasonably withheld. County's right to approve Contractor shall not give rise to an obligation on County's part to assume Lessee's obligations and rights under the contract in the event Lessee should default thereunder. The contractor shall be bondable and shall meet all licensing and insurance requirements of the State of California. It is further understood and agreed that the items set forth below shall be

incorporated as "Special Conditions" into the contract between Lessee and its contractor (with a copy of the contract to be furnished County for County's reasonable approval prior to the commencement by Lessee of the Improvements):

(1) Prior to start of the Improvements, Contractor shall provide County with a construction schedule in "bar graph" form indicating the completion dates of all phases of the Improvements.

(2) Contractor shall be responsible for the repair, replacement or cleanup of any damage done by Contractor to others' property.

(3) Contractor shall contain his storage of materials and his operations within the Premises and such other space as Contractor may be assigned by Lessee or County. Should Contractor be assigned space outside of the Premises, Contractor shall move to such other space as County shall direct from time to time to avoid interference or delays with Airport operations.

(4) All trash and surplus construction materials shall be stored within the Premises and shall be promptly removed from the Premises at the sole cost of the Contractor.

(5) Contractor shall provide temporary utilities, portable toilet facilities and potable drinking water as required for his work within the Premises.

(6) Contractor shall notify the Airports Director of any planned work to be done on weekends or other than normal job hours.

(7) Contractor shall be responsible for compliance with all applicable codes and regulations of duly constituted authorities having jurisdiction insofar as the performance of the work and completed improvements are concerned for all work performed by Contractor, and all applicable safety regulations, and Contractor shall save and hold County harmless for said work as provided herein and in Article 13 (INDEMNIFICATION AND INSURANCE) of the Lease.

(8) Contractor or subcontractors shall not post signs on any part of the Premises or the Airport.

(9) Contractor shall perform said work in a manner and at times that does not impede or delay County's operations at the Airport.

(10) Contractor shall notify the Airports Director at least two (2) business days in advance of the proposed use by contractor of any cranes, boom or other construction equipment that will intrude into the "7:1 slope" or reach a height of 30 feet or more.

4. COMMENCEMENT OF IMPROVEMENTS. As used herein and in the Lease, the "commencement" of work on any Improvement shall be deemed to have occurred upon fulfillment by Lessee, and acceptance thereof by County, of all of the requirements set forth in Sections 2 and 3 of this Work Letter

Agreement, above.

5. PROSECUTION OF WORK.

(a) Diligent Construction. Lessee shall cause Contractor to diligently commence and complete the actual construction of the Improvements (i) in a good and workmanlike manner by well-trained, adequately supervised workers; (ii) in strict compliance with the Final Plans and approved working drawings (except for insubstantial deviations which do not interfere with the utility or use of the Improvements); (iii) in strict compliance with all governmental and quasi-governmental rules, regulations, laws and building codes (including safety requirements), and all requirements of the parties' insurers and lenders; and (iv) in a manner free from all design, material and workmanship defects.

(b) Change Orders. Airports Director shall have the right to approve all material change orders made by Lessee to the Final Plans or Working Drawings, but approval shall not be unreasonably withheld or delayed. "Material changes" shall include, but shall not be limited to any change in the site layout; building configuration, size, or square footage; the drive-through or parking configuration; and the exterior appearance of any building.

(c) County's Rules, Requirements. Lessee shall comply with such reasonable rules and regulations as County may establish regarding Lessee's construction work in order to avoid interference or delays with other work, to protect the property of County and other tenants, and to enhance the safety of the site.

(d) County's Right to Enter. County shall have the right during construction of the Improvements to enter the Premises for the purpose of inspecting construction progress, and making punch-list inspections. County will use its best efforts to minimize interference with Lessee's construction of the Improvements and will give prior reasonable notice to Lessee and Contractor of County's desire to enter the Premises.

(e) Indemnity. Lessee shall protect, indemnify, hold harmless and defend County from and against any loss or damage to property and any liability for death or personal injury arising out of the construction of the Improvements, unless caused solely by the negligence or intentional misconduct of County or its agents or employees.

(f) Mechanic's Liens. Lessee shall cause the Improvements to be constructed free of any vendor's, mechanics' or workers' or other liens whatsoever, as further provided in the Lease.

(g) As-Built Drawings. Within thirty (30) days of completion of the Improvements, Lessee shall deliver to County's Lease Administrator two (2) sets of "as-built" drawings, showing the construction of the Improvements in place.

6. COMPLETION OF IMPROVEMENT. As used herein and in the Lease, the phrase "completion of an Improvement" shall mean Lessee's submission to Airports Director of all of the following documents:

(1) The original Certificate of Occupancy for the Improvement, as issued by the city of Carlsbad, County of San Diego, California.

(2) A certified copy of a Notice of Completion, recorded by Lessee;

(3) A complete list of the names, addresses, telephone numbers and contract amount for all contractors, subcontractors, vendors and/or suppliers providing materials and/or labor for the Improvement;

(4) Copies of all invoices from Contractor, subcontractors, vendors and/or suppliers of labor and/or materials for the Improvement, which Lessee has paid;

(5) Copies of all mechanics' lien releases or other lien releases on account of the Improvement, which are notarized, unconditional and in such form as County shall have approved;

(6) Copies of all building permits, indicating inspection and approval by the issuer of said permits; and

(7) An architect's or engineer's certification that the Improvements have been constructed in accordance with the Final Plans and are one hundred percent (100%) complete in accordance with this Exhibit.

7. CALCULATION OF LESSEE'S COSTS OF CONSTRUCTION.

(a) Lessee's Costs - Definition. As used herein, the term "Lessee's Costs" means the costs actually expended by Lessee, as certified by the project architect, to install any Improvement in accordance with the Final Plans and Working Drawings, including, as applicable, the following: Costs of preparing space plans, construction plans, Final Plans and Working Drawings; costs of labor; costs of equipment and material; Contractor's field overhead and engineering fees; costs of governmental permits and plan-check fees; testing and inspection Costs; Lessee's direct field supervision fees (not to exceed five percent (5%) of the total costs); sales and use taxes (but not real property taxes); bonds; and other costs directly related to the construction of the Improvements. Other than as set forth above, Lessee's Costs shall not include any profit, fee or compensation to Lessee, or interest on Lessee's construction financing or construction loan fees, if any.

(b) Approval of Costs. For purposes of calculating any rent credit due to Lessee pursuant to Article 4 (RENT) of the Lease, Lessee, as soon as reasonably possible following completion of an Improvement, shall prepare and submit to County copies of invoices in a form approved by County representing the total Costs incurred by Lessee in completing such Improvement. County shall deliver its written approval or disapproval of such Costs to Lessee within thirty (30) days after receipt. Notwithstanding any provision of the Lease or this Work Letter Agreement to the contrary, Lessee shall be fully responsible for paying the total Costs incurred to complete any Improvements; County shall have no responsibility to pay such costs.

EXHIBIT I
MASTER DEVELOPMENT PLAN
[To be provided]